

MONTANA LEGISLATIVE HISTORY

Chapter 291 19 79

Bill H 422 S _____

Original bill & history ☒ c

H. Committee on Judiciary

Hearing Date(s) 1/31 ☒ c

2/4 ☒ c

2/13 ☒ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 3/3 ☒ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

CHAPTER NO. 291

HOUSE BILL NO. 422

INTRODUCED BY LORY, PORTER, MAGONE, SCULLY

IN THE HOUSE

January 26, 1979	Introduced and referred to Committee on Judiciary.
February 7, 1979	Committee recommend bill do pass as amended. Report adopted. Intent statement attached.
February 8, 1979	Printed and placed on members' desks.
February 9, 1979	On motion taken from second reading and referred to Committee on Judiciary.
February 13, 1979	Committee recommend bill do pass as amended. Report adopted.
February 14, 1979	Printed and placed on members' desks.
February 15, 1979	Second reading, do pass.
February 16, 1979	Considered correctly engrossed.
February 17, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 19, 1979	Introduced and referred to Committee on Judiciary.
March 3, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 6, 1979	Second reading, pass consideration.

March 7, 1979

Second reading, concurred in.

March 10, 1979

Third reading, concurred in
as amended.

IN THE HOUSE

March 12, 1979

Returned from second house.
Concurred in as amended.

March 14, 1979

Second reading, amendments
adopted.

March 15, 1979

Third reading, amendments adopted.
Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 422
2 INTRODUCED BY Long Howard Mayone Sully
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE CRIMINAL
5 POSSESSION OF PRECURSORS TO CERTAIN DANGEROUS DRUGS,
6 INCLUDING AMPHETAMINE, METHAMPHETAMINE, AND PHENCYCLIDINE;
7 PROVIDING CRIMINAL SANCTIONS; PROVIDING CERTAIN EXEMPTIONS;
8 AND AUTHORIZING RULEMAKING AUTHORITY FOR THE BOARD OF
9 PHARMACISTS TO GRANT EXEMPTIONS."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Criminal possession of precursors to
13 dangerous drugs. (1) A person commits the offense of
14 criminal possession of precursors to dangerous drugs if he
15 possesses:16 (a) both phenyl-2-propanone (phenylacetone) and
17 formamide or hydroxylamine at the same time with the intent
18 to manufacture amphetamine;19 (b) both phenyl-2-propanone (phenylacetone) and
20 methylamine or N-methylformamide at the same time with the
21 intent to manufacture methamphetamine;22 (c) both piperidine and cyclohexanone at the same
23 time, or a combination product thereof, with the intent to
24 manufacture phencyclidine (PCP).

25 (2) A person convicted of criminal possession of

1 precursors to a dangerous drug shall be imprisoned in the
2 state prison for a term not to exceed 20 years.3 (3) For the purposes of this section, possession of
4 immediate precursors sufficient for manufacture of
5 methylamine, phenyl-2-propanone (phenylacetone), piperidine,
6 cyclohexanone, N-methylformamide, or formamide or possession
7 of any compound or mixture containing piperidine or
8 cyclohexanone is possession of precursors to a dangerous
9 drug.10 Section 2. Exemptions. The provisions of [section 1]
11 do not apply to:

12 (1) a drug manufacturer licensed by the state;

13 (2) a person authorized by rules adopted by the board
14 of pharmacists to possess the combination of substances;15 (3) a person employed by a college or university
16 within the state who possesses any combination of substances
17 listed in [section 1] for the purposes of teaching or
18 research which is authorized by the college or university.19 Section 3. Rulemaking authorized. The board of
20 pharmacy shall adopt, amend, or repeal rules in accordance
21 with the Montana Administrative Procedure Act to authorize
22 the processing of any combination of the substances listed
23 in [section 1] whenever it determines that there is a
24 legitimate need and that the substances will be used for a
25 lawful purpose.-End-
-2-H B 422
INTRODUCED BILL

1 STATEMENT OF INTENT RE: HB 422

2
3
4 A statement of intent is required for this bill in that
5 in section 3 it delegates authority to the Board of Pharmacy
6 to adopt rules.

7 House Bill 422 defines the offense of criminal
8 possession of precursors to certain dangerous drugs. The
9 bill provides that its provisions do not apply to those
10 persons or businesses which have a legitimate reason for
11 possessing the precursors. It is possible that certain
12 persons, businesses or research facilities may now or at a
13 later date have a legitimate need for these precursors. The
14 purpose for giving rulemaking authority to the Board of
15 Pharmacy is that it can best determine whether a person,
16 business or research facility has a legitimate need for the
17 precursors. It will also alleviate having to amend the
18 statute in future sessions if it appears that someone is
19 entitled to be exempted from the criminal provisions of the
20 statute.

21 First adopted by the HOUSE COMMITTEE ON JUDICIARY on
22 February 6, 1979.

March 3, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 422 be amended as follows:

1. Page 2, lines 4 through 10.

Strike: subsection (3) in its entirety

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**HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE**

OF MONTANA

**46th Legislative Session
January 3, 1979 to April 20, 1979**

ROBERT L. ANDERSON

ROBERT PAVLOVICH

THOMAS R. CONROY

JONAS ROSENTHAL

AUBYN CURTISS

AUDREY ROTH

FRED DAILY

CARL SEIFERT

WILLIAM DAY

JACK UHDE

RALPH EUDAILY

WES TEAGUE, Vice-chairman

POLLY HOLMES

JOHN P. SCULLY, Chairman

DENNIS IVERSON

MICHAEL KEEDY

MARY ELLEN CONNELLY, Secretary

DANIEL KEMMIS

LARRY WEINBERG, Staff Attorney

KERRY KEYSER

EARL LORY

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 88	for creation & administration of trusts - interests in minerals etc.	1/25	Turnage	Tuesday 30th	As amended be concurred in	3/16
HJR 15	to congress of US to call convention to propose an amendment to protect lives of unborn	1/25	O'Connell	Tuesday 30th	Pass	1/31
HB 413	Compensation for loss of salary for injured officers etc.	1/26	Fabrega	Tuesday 30th	Pass	1/31
HB 422	define criminal possession of precursors to certain dangerous drugs	1/26	Lory	Weds 31st	pass rereferred 2/9	2/6
SB 137	permit SRS access to necess. birth records - adoption agencies	1/26	S. Brown	Weds. 31st	concurred in	3/5
HB 424	revise television district law - creation, alteration or dissolution etc.	1/27	Yardley	Weds 31st	pass	2/2

The regular meeting of the Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building on Wednesday, January 31. All members were present except Representative Eudaily, excused, because he was in the hospital. Bills scheduled for hearing were House Bills 422, 424 and Senate Bill 137.

HOUSE BILL NO. 424:

Representative Yardley. This bill will revise the television district laws.

It would permit the creation, alteration, or dissolution of a district by the residents. It would also change the interest limits on warrants and bonds, and eliminate the requirements related to ownership of television sets. The method of taxing the district would be created by petition. He explained how trustees are determined if more than one county is involved. He went through the bill and listed the changes, and commented that some of them were merely housekeeping.

ROSS WEBB:

Livingston. We are in the process of forming a television district. We now have the opportunity to make it county-wide with UHF stations, for the Livingston area and up the valley. We find that we will have to go to a television tax district in order to finance and control it. We found a few irregularities in the tax laws that Mr. Yardley has pointed out. We have 2800 cable subscribers in Livingston at the present time, but this would cover a wider area than the cable.

REPRESENTATIVE KEEDY:

He questioned the new language on page 5 and discussion followed to determine exactly what was meant. Then discussion was held concerning owners and residents.

Representative Yardley made the comment that 51% of the registered voters were on the petition. Owners now receiving the service can sign an affidavit

There were no other questions and no further discussion and the hearing closed on House Bill Number 424.

SENATE BILL NO. 137:

Senator S. Brown. This bill was at the request of the SRS office. It attempts to expand necessary birth certificate information. This would be for various reasons, such as purposes of custody actions, social security eligibility, or upon the request of the SRS by order of the court, or during the child's minority unless the child has been placed for adoption. You may have heard about a debate in the Senate that is no longer in the bill. Subsection 2 makes it clear that the information can only be released if the specific purpose for which the information is to be used and the information may be used only for that purpose. There must be some need shown for the request before it is released.

NORMA VESTRE, SRS: This bill would allow the department and other adoption agencies to have custody action. There have been problems in the past between the Department of SRS and the Department of Health, which have caused delays in the custody action. You need a birth certificate to receive social security. She gave reasons for the need for access of the records only when an adoption has taken place. She explained the uses and the safeguards that would be taken.

REPRESENTATIVE KEEDY: On page 2, line 10, the new language, it could not be a foster child. Miss Vestre said the birth certificate is sealed upon adoption. She discussed this further.

There were no other questions, and no further discussion and the hearing closed on Senate Bill Number 137.

HOUSE BILL NO. 422: Representative Lory. The purpose of the bill is to circumvent some of the illicit labs that are making drugs. The mere possession of these is presumed the intent to manufacture. He went through the bill and explained the exemptions and the reasons for them. He discussed the types of drugs that are being made, such as goof balls, speed, angel dust and said the PCP is the worst one and it is easily manufactured.

TOM HONZEL: County Attorneys Association. This bill was drafted because of the problems the county attorneys have encountered, just recently with these home labs. We worked with Arnold Melecoff from the state lab in Missoula. He went on to explain what was done and the reasons. There are several other states that have similar legislation. We have encountered the problem only in recent years.

MARK ROSCOE: Prosecuting Services, Attorney Generals Office. I assist the county attorneys at their request. We had a case in Musselshell County last year in which they were manufacturing drugs in an old warehouse. He explained how they manufacture drugs in home labs. The people in the lab said they were from Union Carbide but very few people from Union Carbide work in a broken-down lab in Musselshell, Montana. There are adequate protections for anybody legitimately involved. There is an additional protection. In order to prosecute the state will have to prove the case.

REPRESENTATIVE LORY: The federal register in March, 1977 put only the two immediate starters. We have come further in our bill.

REPRESENTATIVE HOLMES: How do you prove intent to sell. Representative Lory said, by the amount.

Representative Scully led a discussion about the rulemaking authority on page 2. He also asked that a statement of intent be drawn up.

REPRESENTATIVE KEMMIS: Is there any reason that this is defined as a severe crime and not just possession of a dangerous drug. Representative Lory answered that by saying that you have a new penalty with the intent to manufacture.

There was discussion about the two precursors.

REPRESENTATIVE KEEDY: On lines 13 and 14 who is included. Representative Lory said, the drug manufacturer. We had to put the exemptions in for the university. Representative Lory mentioned that there was a companion bill.

Representative Keedy then asked about the section on the top of page 2, concerning the new minimum sentence. Discussion about this section.

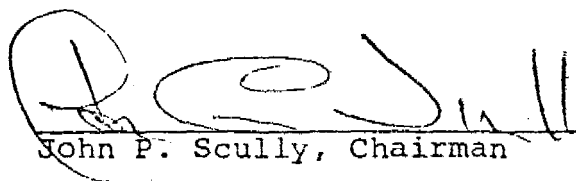
TOM HONZEL: Now we do have a mandatory sentence for some but the way this bill is written is consistent with the code.

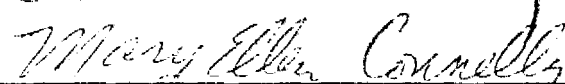
There was no further discussion and no further questions and the hearing closed

on House Bill Number 422.

With no further business to come before the committee at this time the meeting

adjourned at 8:40 a.m.


John P. Scully, Chairman


Mary Ellen Connelly, Secretary

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
EXECUTIVE SESSION
February 6, 1979

Following the regular meeting the committee went into executive session to take action on pending bills. The meeting was called to order by Chairman Scully at 8:10 a.m. in room 436 of the Capitol Building on Tuesday, February 6, 1979. All members were present except Representative Eudaily, in the hospital.

HOUSE BILL NO. 506:

Representative Lory moved to "table" and the motion carried with the

vote unanimous.

HOUSE BILL NO. 514:

Representative Keyser moved "do pass" and the motion carried with the

vote unanimous. Representative Lory moved to place it on the consent calendar. Representative Roth voted "no" for the consent calendar and it did not carry.

HOUSE BILL NO. 422:

Representative Keedy moved to amend line 1, page 2 as follows:

Strike: "a", and strike "drug" and insert "drugs". The motion carried with the vote unanimous. He also moved to amend page 2, line 2, by striking "to exceed" and inserting "less than 2 years or more than". The motion carried after much discussion. Representative Holmes talked against the motion and voted "no" on the motion. Representative Day also voted "no".

There was discussion about suspension of sentences. Representative Lory moved "do pass as amended". The motion carried with the vote unanimous. The committee moved to attach a statement of intent to the bill.

HOUSE BILL NO. 500:

Representative Lory moved "do pass".

Representative Keedy moved to amend page 2, line 6 by striking "regulation" and inserting "rule". The motion carried with the vote unanimous.

There was much discussion about the section. Representative Lory moved to amend page 2, lines 4, 5 and 6, following: 50-32-101, by striking those lines in their entirety. The motion carried with the vote unanimous. This will negate the first amendment since the section will no longer be there.

The committee moved and voted by unanimous consent to attach a statement of intent to the bill. The motion to pass carried with the vote unanimous.

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
February 6, 1979

The meeting was called to order
at 8:00 a.m. by Chairman Scully
in room 436 of the Capitol Building on Tuesday, February 6, 1979.
All members were present except Representative Eudaily, in the
hospital in Missoula.

HOUSE BILL NO. 506: Representative Hershel Robbins, as
sponsor of the bill asked that it
be tabled. The hearing closed on HB 506.

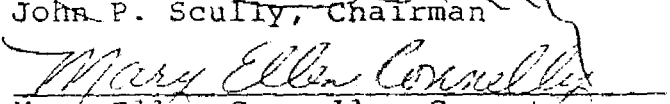
HOUSE BILL NO. 514: Representative Ramirez spoke to
the bill, as chief sponsor. The
Small Tract Financing Act of Montana does not invalidate or preclude
the use of deeds of trust or trust deeds. He went on to explain.
It permits a type of financing, a trust indenture. The trust
indenture does not have to go through a foreclosure procedure.
The trust indenture is permitted in very limited circumstances
because the borrower gives up the right of redemption. He discussed
the case of Alexander Lumber vs Dykster House. He explained how
the bill would work.

Deeds of trust and trust deeds are
used for large loans where one
lender cannot put up that much money, for example, several million
dollars. He went on at some length and explained the differences.

The decision of the Supreme Court
casts some doubt on the validity of
the deeds of trust. The bill says that deeds of trust will be
treated as mortgages. There followed some discussion and questions
about trust indentures, interest rates, and mortgages, trustees,
and trusts.

There were no further questions. no
further discussion and the hearing
closed on House Bill No. 514.

The meeting adjourned at 8:10 and
the committee went into executive
session.


John P. Scully, Chairman

Mary Ellen Connelly, Secretary

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
February 13, 1979

The regular meeting of the Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building on Tuesday. All members were present except Representatives Conroy, Seifert and Uhde.

Scheduled for hearing were the following bills: House Bills 618 and 620 and Senate Bills 104, 152, and 164.

HOUSE BILL NO. 618:

Representative Keedy as chief sponsor of the bill explained the difference between negligent homicide and deliberate homicide. This bill would raise the mandatory minimum sentence for deliberate homicide from 2 years to 10 years and the mandatory minimum sentence of 2 years for negligent homicide and for aiding or soliciting suicide. He went through the bill briefly and explained other provisions. Representative Rosenthal asked what is the minimum sentence now for deliberate homicide. This was discussed at length and Representative Holmes questioned the wisdom of having suicide and euthanasia included

Representative Keedy agreed that he did not think these should be treated as a crime. There was no further discussion and the hearing closed on House Bill 618, after a series of questions and answers.

SENATE BILL NO. 104:

Senator Steve Brown commented that an agency must have express rulemaking authority under Title 53. The bill was entirely rewritten in the Senate. We should define section by section their explicit rulemaking authority. In Section 3 in the Statement of Intent it lists the rulemaking authority. On page 3, lines 4 and 5 have a substantive change. Section 2 deals with the general relief of the department. Senator Turnage raised the question whether SRS could modify the laws, and the answer is no. He explained the bill further.

Representative Roth asked if the rules would be permanent and hard and fast. The Senator said, they may change depending upon the amount of money from the legislature or from the federal government and the program requirements at the federal level. He elaborated on this a little further.

Representative Endaily asked about page 3, part 22, does this help support the problem of the nursing homes. There was discussion about this and it was agreed they would be covered elsewhere.

With no further discussion or question the hearing closed on Senate Bill 104.

JUDICIARY COMMITTEE
EXECUTIVE SESSION
February 13, 1979

The executive meeting of the House Judiciary Committee was called to order following the regular meeting on Tuesday, February 13, 1979 in room 436 of the Capitol Building. Representative Holmes and Seifert, and Conroy were absent and came in later. The meeting was called to order by Chairman Scully at 8:35 a.m.

HOUSE BILL NO. 422: Representative Lory moved to amend.
The motion carried with the vote unanimous.
(copy attached) Representative Lory moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 500: Representative Lory moved to amend and the motion carried with the vote unanimous.
(copy attached) Representative Lory moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 278: Representative Keedy presented prepared copies of Representative Bardanouve's amendments to the committee. He spoke to the amendments and explained them. Representative Day moved to adopt the amendments. The motion carried with the vote unanimous.

Representative Keedy moved to amend page 2, line 4, by striking "less" and inserting "fewer". The motion carried with Representative Eudaily voting "no".

Representative Keedy moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 586: Representative Lory led discussion and moved to reinsert the old political libel language that had been taken out during recodification. The motion carried. Representative Teague moved to table his bill so that the old language would be included in a committee bill and would reinstate the old language. The motion carried with the vote unanimous. A letter will be written to Dave Cogley at the Legislative Counsel asking for the committee bill.

HOUSE BILL NO. 148: This bill has been tabled and is being included in a committee bill. Representative Keyser moved to adopt a committee bill prepared by Larry Weinberg, after study and approval of the Judiciary Committee. The motion carried with the vote unanimous. A letter of intent will be included.

HOUSE BILL NO. 461: Representative Keyser moved to strike on page 10, line 3 in its entirety. The motion carried with Representatives Keedy and Daily voting "no".

Representative Lory moved to amend page

Fifty-Sixth LEGISLATIVE SESSION

COMMITTEE ON Judiciary - Senate

	BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
15.	HB 464	2/13/79	3/3/79	3/3/79						3/3/79
46	HB 514	2/13/79	3/5/79	3/6/79					3/6/79	
47.	HB 519	2/13/79	3/5/79							See note 3/5/79
48	SB 511	2/14/79	2/19/79	2/19/79	2/19/79					
49	SB 516	2/15/79	2/17/79	2/17/79	2/17/79					
50.	SJR 27	2/15/79	2/17/79	2/17/79	2/17/79					
51.	SB 519	2/16/79	2/19/79	2/19/79			2/19/79			
52	HB 537	2/16/79	3/6/79	3/6/79						3/6/79
53	HB 547	2/16/79	3/6/79	3/6/79					3/6/79	
54.	HB 567	2/16/79	3/6/79	3/6/79						3/6/79
55	HB 602	2/16/79	3/6/79	3/6/79						3/6/79
56	HB 603	2/16/79	3/7/79	3/7/79					3/7/79	
57.	HB 580	2/16/79	3/6/79	3/6/79						3/6/79
58	HB 611	2/17/79	3/7/79	3/7/79				3/7/79		
59	HB 422	2/19/79	3/3/79	3/3/79					3/3/79	
60	HB 608	2/19/79	3/7/79	3/7/79					3/7/79	

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 3, 1979

The fiftieth meeting of the Senate Judiciary Committee was called to order in room 311 of the capitol building by Senator Everett R. Lensink on the above date at 9:33 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 464:

This is an act to change the requirement that a youth may waive his rights only with the advice of counsel when the youth is over the age of twelve and the youth and his parents do not agree about making a waiver.

Representative Keyser gave an explanation of this bill, stating that what has happened is that some judges have interpreted the law to say that any time a youth is picked up for any little thing that he should have counsel there representing him.

Tom Honzel, representing the Montana Association of County Attorneys, stated that the youth court act passed in 1964 and the language seemed to indicate that you didn't always have to have an attorney present and the Montana Supreme Court said when you question a youth, you have to have an attorney present. He stated that the policy is to work with a youth early and do it on an informal basis.

Dick Meeker, a juvenile probation officer in Montana, gave a statement in support of this bill and he said that many youth are having to go to court when they could work with them on an informal basis.

There were no further proponents.

Karen Mikota, representing the Montana League of Women Voters, stated that the original bill, when it first came out, stated "only with the advice of counsel" and she said she did not see where it does anything more than the original law did.

Senator Towe stated that the meat of the bill is in subsection (3) and he felt that you certainly want counsel present if he is about ready to sign consent of something and wondered why they need with or without advice of counsel.

CONSIDERATION OF HOUSE BILL 422:

This is an act to define criminal possession of precursors to certain dangerous drugs, including amphetamine, methamphetamine, and phencyclidine, providing criminal sanctions, etc. Representative Lory gave an explanation of this bill, which he stated was requested by the county attorneys.

Tom Honzel, representing the Montana Association of County Attorneys, stated that they became aware last year of a big problem because of angel dust and p.c.p. He told of a case in Roundup, where there was a lab and where they also were able to get a conviction. He stated that they could not find anything but all the precursors, which, he stated, in themselves are not considered controlled substances. He said that they did find some amphetamines in the lab and, on that basis, they were able to get a conviction. He testified that they were manufacturing dangerous drugs.

There were no further proponents and no opponents.

Senator Brown questioned why they would have a statement of intent on HB 422, but not on HB 500, which were related. Representative Lory stated that there was a statement of intent on both of them.

Senator Turnage stated that in subsection 3, you are going to turn all these drug manufacturers into farmers. He moved that the bill be amended by deleting on page 2, lines 4 through 10 subsection (3) in its entirety. The motion carried unanimously.

Senator Towe asked if these products are very easy to process and Representative Lory stated yes, that p.c.p. is particularly easy to manufacture. Senator Towe questioned what kind of drugs are they; and Representative Lory answered that amphetamine and methamphetamine are speed drugs, that p.c.p., or angel dust, is the most dangerous drug we have and frequently is the easiest to manufacture. He stated that it is much worse than L.S.D. and one man in San Francisco took some and it took six men to control him and that this drug just wipes them out.

Senator Turnage moved that the bill be concurred in as amended. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 500:

Representative Lory said that this bill was introduced at the request of the county attorneys association. This is an act to require a report on the sale or transfer of precursors to controlled substances. He stated that this bill would give the department of justice a lead on large sales of these substances and that it does exempt certain individuals.

Tom Honzel, representing the Montana Association of County Attorneys, said that they do support this bill and most of the information is contained in the statement of intent.

There were no further proponents and no opponents.

Senator Anderson questioned if any of these substances are used continually in large amounts and Representative Lory stated that there are exceptions but that they are not in common use.

Senator Lensink questioned as to where this list came from and Representative Lory stated that they were copied from the California law.

Senator Turnage moved that this bill be concurred in. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 464:

Senator Turnage moved that this bill be not concurred in. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 369:

Senator Brown moved that this bill be concurred in. The motion carried with Senator Olson voting no.

DISPOSITION OF HOUSE BILL 332:

Senator Turnage moved that the bill be amended on page 2, line 2, following the word "transcribed" by inserting the word "verbatim". The motion carried unanimously.

Date 3/3/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

Bills to be heard by Senate Judiciary
Saturday, March 3, 1979

1. HB 369 (H. Robbins)
By request of the Dept. of Revenue

Proposed bill - provides that the department of revenue's agent can send notice of levy on property for taxes by certified mail. As originally drafted, the bill also provided that a levy on salaries and wages would continue in effect until the amount due is recovered - this provision of the bill was deleted by the House.

2. HB 464 (Keyser)

Current law - When a youth alleged to be delinquent is taken into custody, he must be informed of his rights immediately. He can waive his rights under the following situations:

- (a) if youth is under 12, his parents can make a waiver (no mention of with or without counsel)
- (b) if youth is over 12, youth and his parents can make waiver (no mention of with or without counsel)
- (c) if youth over 12, if youth and his parents do not agree, youth can waive only with advice of counsel.

Bill as originally proposed - only effective change was in (c) so that a youth over 12, who disagrees with his parents, can waive his rights without counsel.

Bill as amended by House - clarifies (a) and (b) by specifying that waiver by a youth's parents or by a youth and his parents can be with or without counsel. Amended bill reasserts requirement that a youth over 12 who disagrees with his parents can waive his rights only with advice of counsel and adds new (3) that states that presence of counsel is not required for any purpose other than waiver of constitutional rights.

Net effect of HB 464 as amended:
clarify 41-5-303(2)(a) and (b) and add new (3).

Note: HB 464 deals with waiver of rights of a youth who who has been apprehended and before a petition has been filed. SB 454 deals with a youth's right to counsel after a petition has been filed. These two bills are not in conflict (but would have been as HB 464 was originally drafted).

3. HB 443 (Fed)

Current law - parties to a contract can agree on a rate of interest to be paid on a loan. Limits are set on the rate by statute; these rates can be higher than the 6% rate allowed on judgments recovered in court. Presently, if there is a lawsuit on a contract, a party can receive the higher interest up until judgment and then he is limited to the 6% limit after judgment.

Proposed bill - would amend 31-1-110 and 31-1-107 to provide that interest on a judgment for breach of contract must be paid at the agreed-upon interest rate. This means that the interest would be paid at the contract rate both before and after judgment.

4. HB 422 (Lory)

Current law makes it a criminal offense to possess dangerous drugs.

Proposed bill - creates a new criminal offense of possession of chemicals that can readily be used to manufacture dangerous drugs. The House added a 2-year minimum penalty. Section 2 provides for exemptions for licensed drug manufacturers, persons authorized by rules of the Board of Pharmacy, and employees and students (added by House) of colleges and universities engaged in authorized teaching or research. Section 3 gives the Board of Pharmacy rule-making authorization. Problems: 1. Subsection (3) of Section 1 does not require that particular combinations of chemicals be possessed in order to constitute the crime.

Suggestions: on page 2, lines 9 & 10, change "precursors to a dangerous drug" to "the chemical that can be manufactured from such precursors or the chemical contained in such compound or mixture"

2. There is no statement of intent.

5. HB 500

Section 1. Requires reports to the Department of Justice of all sales and transfers of certain chemicals which can readily be used to manufacture dangerous drugs; grants the department the power to add or subtract from the list of chemicals by rule; and provides for exemptions from the reporting requirement (the House added transfer within a college or university for authorized teaching or research).

Section 2. Requires the department to provide forms for reports requiring specified information.

Section 3. Requires the department to provide forms for regents requiring specified information.

Section 4. Requires reports to the Department of Justice of losses and thefts of such chemicals.

Section 5. Makes it a felony to knowingly fail to report.

Please sign & return to Secretary

SENATE

COMMITTEE

BILL

VISITORS' REGISTER

DATE

3/3/79

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)
SUPPORT

OPP

Eddie Lee

Refugee Act 97

424
5367

✓

Tom Hong

County Attorney

422
500 464

✓

Cal Semshaw

Dept of Revenue

HB 369

✓

John Smith

House of Representatives

✓

Karen Mikota

Montana League of Women Voters

HB 464

✓

Pat Stuart

St. Paul Council

HB 123

✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

#50

HB 443

1. Page 2:

Following: line 16

Insert: "Section 3. Application.

This act applies only to
judgments entered after
June 30, 1979."

Lory (D'Hara)

HB 422

1. Page 2, lines 4 through 10.

Strike: subsection (3) in its
entirety

STANDING COMMITTEE REPORT

..... March 3, 19 79

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 422

Lory (O'Hara)

Respectfully report as follows: That House Bill No. 422

third reading bill, be amended as follows:

1. Page 2, lines 4 through 10.
Strike: subsection (3) in its entirety

And, as so amended,
BE CONCURRED IN

COMPASSX

11e
(15-6)

HOUSE BILL NO. 422

INTRODUCED BY LORY, PORTER, MAGONE, SCULLY

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE CRIMINAL POSSESSION OF PRECURSORS TO CERTAIN DANGEROUS DRUGS, INCLUDING AMPHETAMINE, METHAMPHETAMINE, AND PHENCYCLIDINE; PROVIDING CRIMINAL SANCTIONS; PROVIDING CERTAIN EXEMPTIONS; AND AUTHORIZING RULEMAKING AUTHORITY FOR THE BOARD OF PHARMACISTS TO GRANT EXEMPTIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Criminal possession of precursors to dangerous drugs. (1) A person commits the offense of criminal possession of precursors to dangerous drugs if he possesses:

(a) both phenyl-2-propanone (phenylacetone) and formamide or hydroxylamine at the same time with the intent to manufacture amphetamine;

(b) both phenyl-2-propanone (phenylacetone) and methylamine or N-methylformamide at the same time with the intent to manufacture methamphetamine;

(c) both piperidine and cyclohexanone at the same time, or a combination product thereof, with the intent to manufacture phencyclidine (PCP).

(2) A person convicted of criminal possession of

precursors to a dangerous drug ~~DRUGS~~ shall be imprisoned in the state prison for a term not to exceed LESS THAN 2 YEARS ~~OR MORE THAN~~ 20 years.

~~(3) For the purposes of this section, possession of immediate precursors sufficient for manufacture of methylaminy-phenyl-2-propanone (phenylacetone), piperidine, cyclohexanone, N-methylformamide, or formamide, or possession of any compound or mixture containing piperidine, or cyclohexanone is possession of precursors to a dangerous drug.~~

Section 2. Exemptions. The provisions of [section 1] do not apply to:

(1) a drug manufacturer licensed by the state;

(2) a person authorized by rules adopted by the board of pharmacists to possess the combination of substances;

(3) a person employed by OR ENROLLED AS A STUDENT IN a college or university within the state who possesses any combination of substances listed in [section 1] for the purposes of teaching or research which is authorized by the college or university.

Section 3. Rulemaking authorized. The board of pharmacy shall adopt, amend, or repeal rules in accordance with the Montana Administrative Procedure Act to authorize the processing of any combination of the substances listed in [section 1] whenever it determines that there is a

HB 0422/04

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- 1 legitimate need and that the substances will be used for a
- 2 lawful purpose.

-End-